IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1601 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJESHKUMAR DHULABHAI PARMAR - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
NOTICE SERVED for Petitioner(s) : 1,(MR SR BRAHMBHATT) for Petitioner(s) : 1,MRS DAXA N MEHTA for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,3 - 4.
GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 13/10/2005

ORAL JUDGMENT

1.Though served, nobody appears on behalf of the petitioner.

2.In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality

and validity of the notice issued by the Mamlatdar (Encroachment), Gandhinagar Township dated 12-4-1984 issued under Section 61 of the Bombay Land Revenue Code requiring the petitioner to evict the land by 30th April, 1984 after inquiry.

3. It appears from the pleadings that it is the contention of the petitioner that the land of the petitioner has been acquired by the Government for the construction of city of Gandhinagar as Capital of Gujarat and as an affected person, petitioner is entitled to the plot of land and that even otherwise, the Government is required to follow the procedure as required under the provisions of Gujarat Public Premises (Eviction of Unathorised Occupants) Act, 1972. A detailed affidavit-in-reply is filed on behalf of the respondents and it is submitted that the land in question upon which the petitioner has encroached upon, is a Government land, which was already acquired for the Capital Project. It is also further submitted in the affidavit-in-reply that earlier also somewhere in the year 1983, the petitioner herein had carried out illegal construction of residential building and therefore, steps under the Bombay Land Revenue Code to get the said land vacated were taken and the construction carried out by the petitioner was removed. However, subsequently, again

the petitioner has encroached upon the Government land and has put up the residential building unauthorisedly. It is also further submitted in the affidavit-in-reply that originally the land which stood in the name of the grandfather Shri Bababhai Shivabhai Parmar was came to be acquired for the purpose of Capital Project and as per the policy evolved by the State Government from time to time, the father of the petitioner Shri Dhulabhai Bababhai was already taken in service in the Parks and Gardens Section of the Capital Project as affected person. It is also further submitted in the affidavit-in-reply that vide G.R. Dated 14-8-1987 of the Road & Building Department, it was decided to allot the residential plots to the persons, whose lands have been acquired for the purpose of Capital Project in Sector 25 and 26 of Gandhinagar and pursuant to the said G.R., the grandfather of the petitioner has already been alloted a plot of land admeasuring about 81 sq mtr bearing Plot No.285/1 in Sector 25, Gandhinagar on 13-12-1995 as an affected person. Therefore, it is submitted that the claim of the petitioner is not maintainable in law and he is not entitled for grant of any plot of land further.

4. In view of the above and in view of the fact that the petitioner has encroached upon the Government land,

which is already acquired for Capital Project and it was an open piece of land, there was no question of following any procedure of Gujarat Public Premises (Eviction of Unathorised Occupants) Act, 1972 and more particularly when the grandfather of the petitioner, whose lands have been acquired for the purpose of Capital Project has already been alloted a plot of land as per the policy of the State Government.

5. It is required to be noted that earlier the petitioner has encroached upon the Government land and it was removed and subsequently again the petitioner has encroached upon the Government land and has put up the residential premises unauthorisedly.

6. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed.

7. For the reasons as stated above, petition fails. Rule is discharged. Ad interim relief if any, stands vacated. However, no order as to costs.

(M.R.SHAH,J)

shekhar/-